

**IN THE COURT OF APPEALS OF IOWA**

No. 0-650 / 10-0997  
Filed September 9, 2010

**IN THE INTEREST OF K.B. and S.B.,  
Minor Children,**

**J.M.B., Mother,  
Appellant.**

---

Appeal from the Iowa District Court for Grundy County, Kellyann M. Lekar,  
Judge.

A mother appeals from the order terminating her parental rights.

**AFFIRMED.**

Michael H. Bandy of Bandy Law Office, Waterloo, for appellant mother.

Michael Lanigan, Waterloo, for father.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant  
Attorney General, Kirby D. Schmidt, County Attorney, and Erika L. Allen,  
Assistant County Attorney, for appellee State.

Tammy L. Banning of Tammy L. Banning, P.L.C., Waterloo, for minor  
children.

Considered by Vogel, P.J., and Doyle and Mansfield, JJ.

**MANSFIELD, J.**

Julie appeals from the order terminating her parental rights to her two daughters, K.B. (born 1996) and S.B. (born 2000), under Iowa Code sections 232.116(1)(d) and (f) (2009). Julie contends the district court erred in terminating her parental rights because she was not provided visitation as a reasonable reunification effort. We share the district court's view that visitation would not have been in the best interests of the children, and therefore affirm.

**I. Standard of Review.**

We review the termination of parental rights de novo. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). Although we give weight to the juvenile court's factual findings, we are not bound by them. *Id.*

**II. Background Facts and Proceedings.**

In 2004, K.B. (then age seven) was the victim of repeated sexual abuse perpetrated by her older half-brother. Julie's minimization and denial of this abuse as well as her failure to seek any therapy for K.B. resulted in K.B. having significant mental health problems and trust issues with Julie.

In May 2008, the Iowa Department of Human Services (DHS) provided voluntary services to the family due to lack of supervision concerns. In August 2008, the State filed a children in need of assistance (CINA) petition because Julie was uncooperative with the voluntary services, was not addressing K.B.'s mental health needs, and allowed the older half-brother to have contact with the children while he was on a break from residential sexual offender treatment.

In October 2008, the children were removed from Julie's home after a disturbing incident involving the two girls. The children were home alone at the

time of the incident. The children were placed in the home of their father. In January 2009, both children were adjudicated CINA under Iowa Code section 232.2(6)(c)(2).

Following the children's removal, Julie refused to participate in visitation and services. Due to her refusals, the first visit was not scheduled until December 3, 2008. However, this visit was cancelled due to recommendations by the children's counselors. The counselors advised that visitation was not safe due to the extreme emotional disturbances each child expressed when discussing the anticipated visit.

Following the cancellation, Julie filed a motion with the court seeking visitation. The motion was denied by the court on March 10, 2009. On the same day, K.B. was hospitalized for physically attacking her father and stepmother. This was K.B.'s fourth hospitalization since the initiation of the CINA petition. The prior hospitalizations were the result of suicidal ideations and violent behaviors. On April 13, 2009, disposition for K.B. was modified and she was placed into a Psychiatric Medical Institute for Children (PMIC).

At the PMIC facility, K.B. did not want to have any visits or family therapy sessions with Julie. Nonetheless, Julie was allowed to contact K.B. by telephone. However, the calls had to be limited to once a week because they were found to be detrimental to K.B.'s treatment. Although the calls were supervised, Julie often brought up inappropriate topics, and K.B.'s behaviors worsened following the calls.

During this same time period, no contact occurred between Julie and S.B. Julie did not request the opportunity to make phone calls. At therapy, it was

noted that when the subject of seeing Julie was introduced, S.B.'s behaviors deteriorated. S.B. became increasingly argumentative and displayed regressed behaviors, including wetting her bed and pants numerous times and eating toilet paper. The therapist recommended against any visitation between S.B. and her mother, including telephone contact.

In March 2009, Julie began attending mental health counseling. However, despite written and verbal requests, neither Julie nor her therapist provided any information regarding Julie's treatment to DHS. Julie was also given the opportunity to write letters to the girls, but her letters were not given to them because they placed blame on the girls and appeared to contain bribes.

On June 23, 2009, a dispositional review hearing was held at which Julie again requested visitation. The court took the request under advisement and sought additional information. Consequently, DHS, the guardian ad litem, and Julie all submitted reports and written responses concerning visitation.

On August 10, 2009, the court denied Julie's request for visitation. The court concluded that the "current orders continue to serve the best interest of the children." It further wrote:

If the mother can show a change of circumstances, including but not limited to her full disclosure of her mental health records and treatment, the court may reconsider these orders upon such a showing and a showing that the mother is fulfilling her obligations under the case plan, among which is an ability to protect her children, which she has not yet been able to demonstrate.

The mother appealed the order to our court, and we affirmed, expressly approving the district court's reasons and conclusions. *In re K.B.*, No. 09-1229, 2009 WL 3384209 (Iowa Ct. App. Oct. 21, 2009).

Julie's counselor did not provide a letter to DHS disclosing Julie's treatment until November 23, 2009. There continued to be concerns about contact between Julie and the daughters. According to a DHS report, K.B. continued to have suicide ideation. Further:

[K.B.]'s individual therapist and her care manager do not recommend any contact with Julie as contact appears to be detrimental to [K.B.]s' progress in treatment, even with highly monitored calls.

[S.B.] continues to state that she does not want to see or hear from her mother and refuses to discuss her at all. The last time Julie was brought up, [S.B.] wet her pants for a week.

On December 17, 2009, the State filed a petition to terminate Julie's parental rights. The petition was heard on March 29-30, 2010. At the hearing, several service providers testified to the children's behaviors and mental health issues and Julie's lack of insight and own mental health issues throughout this proceeding. Each testified that termination would be in the best interests of the children. Julie continued to argue for her children's return, but did acknowledge that reunification today "probably would be a disaster." The court entered an order terminating Julie's parental rights on June 4, 2010. Julie has appealed.

### **III. Analysis.**

Julie's sole argument is that she should have been granted visitation as a reasonable reunification effort. When a child has been removed from a parent's care, the State has the responsibility to "make every reasonable effort to return the child to the child's home as quickly as possible *consistent with the best interests of the child.*" Iowa Code § 232.102(7) (emphasis added). In making

reasonable efforts, “[a] child’s health and safety shall be the paramount concern.”

*Id.* § 232.102(10)(a) (defining reasonable efforts).

The reasonable efforts concept broadly includes a visitation arrangement “designed to facilitate reunification while protecting the child from the harm responsible for the removal.” *In re M.B.*, 553 N.W.2d 343, 345 (Iowa Ct. App. 1996).

Visitation, however, cannot be considered in a vacuum. It is only one element in what is often a comprehensive, interdependent approach to reunification. If services directed at removing the risk or danger responsible for a limited visitation scheme have failed its objective, increased visitation would most likely not be in the child’s best interests.

*Id.*

Upon our review of the record, we agree with the district court’s findings that visitation would have been detrimental to both of the children’s mental health and was not in their best interests. Visitation with the children was limited at the recommendation of several professionals working with the children in therapy and counseling. At these sessions, whenever visitation was mentioned, both children displayed severe regressions in their behaviors. K.B. would become increasingly aggressive and physically violent, while S.B. exhibited infantile-like behaviors. In addition, although face-to-face contact was denied, Julie was able to talk to K.B. by telephone. During those conversations, it was often found that Julie talked about inappropriate topics and K.B.’s behaviors often worsened following those conversations. Julie was also given the opportunity to write letters to the children, but these letters inappropriately blamed the children.

We further note that Julie's contentions were the subject of a prior appeal to this court. After Julie's motion for visitation with her children was denied in August 2009, she appealed to this court and we affirmed. That is the law of the case as far as complaints about denial of visitation through August 2009. *Fisher v. Iowa Bd. of Optometry Exam'rs*, 510 N.W.2d 873, 877 (Iowa 1994).

The record also clearly shows that throughout this case Julie has demonstrated an inability to address her children's as well as her own mental health needs. Julie minimized and denied her children's sexual abuse victimization and mental health issues. Julie has also repeatedly shown a lack of insight into how her lack of supervision led to her children's abuse, mental health issues, and a sense of distrust in her. See *In re H.R.K.*, 433 N.W.2d 46, 50 (Iowa Ct. App. 1988) (stating "the requirement that the parents acknowledge and recognize the abuse before any meaningful change can occur is essential in meeting the child's needs"). Her failure to address these issues, as well as her own mental health concerns, is what prevented any increase in visitation. See *In re C.B.*, 611 N.W.2d 489, 494 (Iowa 2000) (stating the focus of reasonable efforts is the services provided and the parents response).

We find that providing increased visitation would have been a detriment to each child's health and safety, and thus was not consistent with their best interests.

We also find that termination of Julie's parental rights is in the children's overall best interests. See *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010). In considering a child's best interests, we "give primary consideration to the child's safety, to the best placement for furthering the long-term nurturing and growth of

the child, and to the physical, mental, and emotional condition and needs of the child.” *Id.* (quoting Iowa Code § 232.116(2)).

Julie is unable to provide for or recognize either of her children’s mental health needs. Since K.B. has been placed at the PMIC facility and S.B. in the care of her father and stepmother, both have improved educationally, mentally, and emotionally. S.B. has also bonded with the stepmother.

Accordingly, we affirm the juvenile court’s order terminating Julie’s parental rights to K.B. and S.B.

**AFFIRMED.**